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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
6

7 FINJAN, INC.,
8 Plaintiff,

9 v.

10 BLUE COAT SYSTEMS, LLC,
11 Defendant.

Case No. 15-cv-03295-BLF

**OMNIBUS ORDER RE: SEALING
MOTIONS**

[Re: ECF 321, 323]

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13 Before the Court are two administrative motions to file under seal, one from Plaintiff
14 Finjan, Inc. (“Finjan”) and one from Defendant Blue Coat Systems, LLC (“Blue Coat”). ECF
15 321, 323. Both relate to the responsive briefing on the parties’ motions *in limine*. *See id.* For the
16 reasons set forth below, the motion at ECF 321 is GRANTED and the motion at ECF 323 is
17 GRANTED IN PART and DENIED IN PART.

18 **I. LEGAL STANDARD**

19 “Historically, courts have recognized a ‘general right to inspect and copy public records
20 and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. of*
21 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
22 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are
23 “more than tangentially related to the merits of a case” may be sealed only upon a showing of
24 “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,
25 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed
26 upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this
27 district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).
28 A party moving to seal a document in whole or in part must file a declaration establishing that the

identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

II. DISCUSSION

The Court has reviewed the parties’ sealing motions and the declarations submitted in support thereof. The Court finds that the parties have articulated compelling reasons and good cause to seal certain portions of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

A. ECF 321

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
332-1	Blue Coat’s Opposition to Finjan’s Motion <i>in Limine</i> No. 2	GRANTED as to highlighted portions.	Contains confidential competitive and financial information. Declaration of Robin Brewer in Support of Blue Coat’s Administrative Motion to File Under Seal, ECF 321-2 (“Brewer Blue Coat Sealing Decl.”) ¶ 8.
332-3	Blue Coat’s Opposition to Finjan’s Motion <i>in Limine</i> No. 4	GRANTED as to highlighted portions.	Contains confidential competitive and technical information relating to the operation and capabilities of Blue Coat’s Security Analytics (“SA”) and Malware Analysis Appliance (“MAA”) products. Brewer Blue Coat Sealing Decl. ¶ 9.
332-5	Blue Coat’s Opposition to Finjan’s <i>Daubert</i> Motion	GRANTED as to highlighted portions.	Contains confidential competitive information and confidential technical information relating to the operation and capabilities of Blue Coat’s Content Analysis System (“CAS”), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan’s licensing negotiations and license agreements. Declaration of Hannah Lee in Support of Blue Coat’s Administrative Motion to File Under Seal, ECF 334 (“Lee Blue Coat Sealing Decl.”) ¶ 4.

1	321-3	Ex. D to Declaration of Robin Brewer in Support of Blue Coat's Oppositions to Finjan's Motions <i>in Limine</i> , ECF 320 ("Brewer Decl.")	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat and Finjan, and confidential information relating to Blue Coat's backend systems. Brewer Blue Coat Sealing Decl. ¶ 11. Contains information confidential to Finjan's licensing negotiations and license agreements. Lee Blue Coat Sealing Decl. ¶ 4.
2	321-4	Ex. F to Brewer Decl.	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat. Brewer Blue Coat Sealing Decl. ¶ 12.
3	321-5	Ex. G to Brewer Decl.	GRANTED.	Contains sensitive and confidential sales and revenue information. Brewer Blue Coat Sealing Decl. ¶ 13.
4	321-6	Ex. H to Brewer Decl.	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat, and confidential information relating to Blue Coat's backend systems. Brewer Blue Coat Sealing Decl. ¶ 11.
5	321-7	Ex. I to Brewer Decl.	GRANTED.	Contains sensitive and confidential competitive information. Brewer Blue Coat Sealing Decl. ¶ 14.
6	321-8	Ex. J to Brewer Decl.	GRANTED.	Contains sensitive and confidential competitive information. Brewer Blue Coat Sealing Decl. ¶ 14.
7	321-9	Ex. K to Brewer Decl.	GRANTED.	Contains confidential competitive information relating to Blue Coat. Brewer Blue Coat Sealing Decl. ¶ 15.
8	321-10	Ex. L to Brewer Decl.	GRANTED.	Contains confidential revenue information. Brewer Blue Coat Sealing Decl. ¶ 16.
9	321-11	Ex. N to Brewer Decl.	GRANTED.	Is a confidential license agreement. Brewer Blue Coat Sealing Decl. ¶ 17. Contains information confidential to Finjan's licensing negotiations and license agreements. Lee Blue Coat Sealing Decl. ¶ 4.
10	321-12	Ex. O to Brewer Decl.	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat, and confidential information relating to Blue Coat's backend systems. Brewer Blue Coat Sealing Decl. ¶ 11.
11	321-13	Ex. P to Brewer Decl.	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat and Finjan. Brewer Blue Coat Sealing Decl. ¶ 18.
12	321-14	Ex. Q to Brewer Decl.	GRANTED.	Contains sensitive and confidential technical information relating to the operation and capabilities CAS and MAA. Brewer Blue Coat Sealing Decl. ¶ 19.

B. ECF 323

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
323-4	Finjan's Opposition to Blue Coat's Motion <i>in Limine</i> No. 1	GRANTED as to p.2 ll. 1-2, 7, 10-11, 26; p.3 ll. 9-11, 14, 16, 20, 26-27; p. 4 ll. 1-2; p.6 ll. 2-3, 10-12. DENIED as to the remainder.	Contains information confidential to Finjan's business and licensing practices. Declaration of Hannah Lee in Support of Finjan's Administrative Motion to File Under Seal, ECF 323-1 ("Lee Finjan Sealing Decl.") ¶ 4. Contains highly confidential technical information relating to WebPulse and highly confidential financial information and disclosures regarding confidential aspects of Blue Coat's business. Declaration of Robin Brewer in Support of Finjan's Administrative Motion to File Under Seal, ECF 323-1 ("Brewer Finjan Sealing Decl.") ¶ 5. The remainder is denied because Blue Coat has not indicated that those portions of this document contain confidential information. <i>See id.</i>
323-6	Finjan's Opposition to Blue Coat's Motion <i>in Limine</i> No. 2	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 5; Brewer Finjan Sealing Decl. ¶ 6.
323-8	Finjan's Opposition to Blue Coat's Motion <i>in Limine</i> No. 4	GRANTED as to highlighted portions.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 6.
323-10	Ex. 1 to Declaration of Hannah Lee in Support of Finjan's Oppositions to Blue Coat's Motions <i>in Limine</i> , ECF 331 ("Lee Decl.")	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 7.
323-12	Ex. 2 to Lee Decl.	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan Sealing Decl. ¶ 8.
323-14	Ex. 4 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 9.
323-16	Ex. 5 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 10.

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324-1	Ex. 6 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 11.
324-3	Ex. 7 to Lee Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential financial and competitive information. Brewer Finjan Sealing Decl. ¶ 12.
324-5	Ex. 8 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to Blue Coat's products. Brewer Finjan Sealing Decl. ¶ 13.
324-7	Ex. 9 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to Blue Coat's products. Brewer Finjan Sealing Decl. ¶ 14.
324-9	Ex. 10 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to Blue Coat's products. Brewer Finjan Sealing Decl. ¶ 15.
324-11	Ex. 11 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial and competitive information. Brewer Finjan Sealing Decl. ¶ 16.
324-13	Ex. 12 to Lee Decl.	GRANTED as to highlighted portions.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 9. Contains discussion of highly confidential and sensitive Blue Coat financial and competitive information. Brewer Finjan Sealing Decl. ¶ 17.
324-15	Ex. 13 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial information. Brewer Finjan Sealing Decl. ¶ 18.
324-17	Ex. 14 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 19.
324-19	Ex. 15 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial information. Brewer Finjan Sealing Decl. ¶ 20.
325-1	Ex. 16 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial information. Brewer Finjan Sealing Decl. ¶ 21.
325-3	Ex. 17 to Lee Decl.	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan Sealing Decl. ¶ 22.
325-5	Ex. 18 to Lee Decl.	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan Sealing Decl. ¶ 23.
325-7	Ex. 19 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive information Blue Coat competitive and business information. Brewer Finjan Sealing Decl. ¶ 24.
325-9	Ex. 20 to Lee Decl.	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan Sealing Decl. ¶ 25.

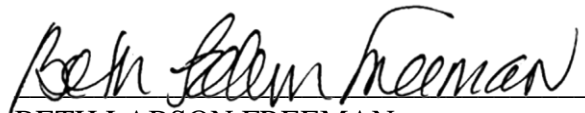
325-11	Ex. 21 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information. Brewer Finjan Sealing Decl. ¶ 26.
325-13	Ex. 24 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial information. Brewer Finjan Sealing Decl. ¶ 27.
325-15	Ex. 26 to Lee Decl.	GRANTED.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 10.
325-17	Ex. 27 to Lee Decl.	GRANTED.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 10.
325-19	Ex. 28 to Lee Decl.	GRANTED.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 10.
325-21	Ex. 29 to Lee Decl.	GRANTED as to highlighted portions.	Contains information confidential to Finjan's business and licensing practices. Lee Finjan Sealing Decl. ¶ 11.

III. ORDER

For the reasons set forth below, the motion at ECF 321 is GRANTED and the motion at ECF 323 is GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

IT IS SO ORDERED.

Dated: October 4, 2017


BETH LABSON FREEMAN
United States District Judge